

**TOWN OF GILBERT  
VARIANCE HEARING  
MEETING MINUTES  
90 E. CIVIC CENTER DRIVE  
CONFERENCE ROOM 100  
GILBERT, ARIZONA  
NOVEMBER 9, 2016**

**CASE V16-08      V16-08: LIDDELL GARAGE REMODEL AND ADDITION:  
REQUEST TO DEVIATE FROM THE TOWN OF GIBLERT LAND  
DEVELOPMENT CODE (LDC) REQUIREMENTS CONTAINED  
IN SECTION 2.104 LOT DEVELOPMENT REGULATIONS AND  
SECTION 2.106 ADDITIONAL DEVELOPMENT REGULATIONS;  
TO ALLOW RELIEF FROM THE REQUIREMENT THAT A  
SECONDARY DWELLING UNIT/ DETACHED GARAGE  
STRUCTURE BE PARTIALLY LOCATED IN THE SIDE AND  
REAR SETBACKS OF THE LOT AND TO INCREASE THE  
MAXIMUM LOT COVERAGE. THE SUBJECT REAL  
PROPERTY IS LOCATED AT 120 W. PARK AVE. AND IS ZONED  
SINGLE FAMILY-6 (SF-6) ZONING DISTRICT.**

**ATTENDANCE:** Joshua Oehler, Zoning Hearing Officer  
Nathan Williams, Senior Planner  
Doralise Machado-Liddell  
Debbie Frazey, Recording secretary

Zoning Hearing Officer Joshua Oehler opened the hearing at 5:00 p.m. He verified that everyone present had indicated their attendance on the sign-in sheet provided. Hearing Officer Oehler gave a brief explanation of the current proceedings and the order in which the hearing would proceed. He advised the applicant that Planner Nathan Williams would make his presentation and then the applicant would be allowed time to provide any additional information she wished to add, in an effort to provide as much information as necessary to help render a decision. After the applicant presented any additional info regarding the case, Zoning Hearing Officer Oehler indicated that he would ask any questions that he had at that time. Hearing Officer Oehler stated that at the end of the proceedings, he had the option to render a decision immediately or he might require additional time and render his decision within the 10-day window he is allowed.

Planner Nathan Williams began his presentation on Case V16-08, Liddell Garage Remodel and Addition. He shared that the location of the property was 120 W. Park Avenue, Gilbert. The property is located in the Downtown Heritage Village region. The zoning for the site is Single Family – 6 (SF-6). He indicated the location of the property on an aerial map. He shared some information about the surrounding area, noting the location of the Gilbert Community Center, a park and Gilbert Road to the east. He said the subject site was Lot 13 within the Lacy Tract subdivision. The Plat for the Lacy Tract subdivision was recorded in 1917. He shared the final plat. He showed a view of the existing residence and detached garage structure on the property, pointing out that they were built in 1941. He also pointed out on the aerial view the existing structures on the site. Planner Williams pointed out that the existing residence was not a part of this case. The variance request would apply to the remodel of an existing garage and an addition, in order to construct a secondary dwelling unit and detached garage structure on the subject site. He shared the location of Park Avenue and an alleyway behind the subject property that is accessible to the property owners in the area. He shared some photos of the property that had been provided by the applicant. The lot size is 50' x 130' and rectangular in shape. The lot width is 50' wide, however, 55' wide is the minimum currently required in the SF-6 zoning district. The property owner proposes to renovate/reconstruct the existing detached garage structure and shade structure that was built with the primary dwelling unit in 1941. The applicant also plans to construct a new 1,214 square foot secondary dwelling unit and detached garage structure on the northern portion of the property. This would essentially replace the existing structure, which is dilapidated and located approximately 1' over the eastern property line.

#### **Project Data Table**

|                        | <b>Required per LDC<br/>SF-6</b> | <b>Proposed under V16-08<br/>SF-6</b>            |
|------------------------|----------------------------------|--|
| Minimum Lot Area       | 6,000 sq. ft.                    | 6,500 sq. ft.                                    |
| Minimum Lot Width      | 55'                              | 50'  |
| Minimum Lot Depth      | 100'                             | 130'   |
| Building Setback Front | 20'                              | N/A – Secondary Dwelling Unit                    |
| Building Setback Side  | 5'/ 10'                          | <b>3'/ 10' – Secondary Dwelling Unit/ Garage</b> |
| Building Setback Rear  | 20'                              | <b>5' – Secondary Dwelling Unit/ Garage</b>      |
| Maximum Lot Coverage   | 45%                              | <b>55%</b>                                       |

Planner Williams went through the variance requests as listed in the Project Data Table (above). He said that a secondary dwelling unit is required to be located within the building envelope. Because the subject was reclassified to SF-6 zoning district in 2005, the applicant finds the required lot development regulations of the Land Development Code (LDC), including the conventional setbacks and lot coverage, cannot be met due to the narrow and uniquely shaped lot within the Heritage District. Planner Williams noted that if the variance request is approved, the applicant will then have to apply for an Administrative Use Permit application to allow for a

secondary dwelling unit on the subject site. He noted that the variance request is a necessary first step.

Planner Williams shared the four variance requests as follows:

- 1) Request to deviate from the Town of Gilbert Land Development Code Requirements Contained in Section 2.104 and Section 2.106: Lot Development Regulations – Single Family Residential Districts: to increase the maximum permitted lot coverage from 45% to 55%;
- 2) Request to deviate from the Town of Gilbert Land Development Code Requirements Contained in Section 2.104 and Section 2.106: Lot Development Regulations – Single Family Residential Districts: to reduce the required side yard (east) setback from 5 feet to 3 feet;
- 3) Request to deviate from the Town of Gilbert Land Development Code Requirements Contained in Section 2.104 and Section 2.106: Lot Development Regulations – Single Family Residential Districts: to reduce the required side yard (west) setback from 10 feet to 5 feet; and
- 4) Request to deviate from the Town of Gilbert Land Development Code Requirements Contained in Section 2.104 and Section 2.106: Lot Development Regulations – Single Family Residential Districts: to reduce the required rear yard (north) setback from 20 feet to 5 feet.

Planner Williams also shared the elevations and the floorplans that the applicant had provided. He briefly discussed the garage design, noting it would be a two-car garage, with the alley being the primary access point. He noted that there would also be a one-bay garage door located to the south. He noted that the applicant had done a good job of trying to recreate the building materials and the design of the original home. He indicated that the applicant could not remodel the structure in its current state, as the applicant would not be able to obtain a building permit, due to the fact that the structure was built over the property line. Due to this constraint, the applicant doesn't have a lot of options. He also provided other photos showing similar properties that are in the area. He also noted that four variances had been previously granted, each of which had similar requests. These variance requests have been approved over the past few years.

Planner Williams then discussed the four findings of fact (per Section 5.503 of the LDC) that were required to approve a variance request. He shared that the applicant was trying to improve the existing condition of the site. The four findings are:

## **FINDINGS**

***A. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;***

*Staff finds that special circumstances are present.*

Although the subject site is uniform in shape with many of the other parcels of the Lacy Tract Subdivision created in 1917, staff does consider the parcel to be somewhat irregularly shaped in terms of the narrow width and long depth in relation to the SF-6 development standards, notably side and rear yard setbacks. With the neighboring parcels essentially being narrow but deep lots with both alley-loaded access and front street access, the parcels in the area are uniquely configured because they are a part of a true village center established in 1917.

Additionally, staff notes that the location of the subject site in the Heritage District of the Town of Gilbert constitutes a special circumstance for the property for multiple reasons. The Redevelopment Plan specifically encourages reinvestment by rehabilitating substandard buildings. As such the parcel and the Lacy Tract subdivision were created and recorded with Maricopa County in 1917 and the existing home and detached garage constructed circa 1941 as noted by the applicant. Additionally, previous zoning for the subject site and Lacy Tract subdivision was “R-3 District, Multi-Family Residence” under the Unified Land Development Code (ULDC), which allowed by right for multi-family developments on one parcel. In 2005, the parcel and area were reclassified to conventional SF-6 zoning with the adoption of the current Land Development Code (LDC). However, the past and current zoning districts for the subject site have not particularly suited a parcel or area that is intended for downtown or “village center” living, which typically allow for more density via increased height or reduced setbacks for a variety of housing types and options such as bungalows and multi-plex structures, and ideally creating walkability to the downtown or village center of Gilbert.

As such staff notes that a text amendment (Z16-17) to the LDC is being initiated for the very purpose of creating unique zoning district(s) for existing residential parcels in the Heritage District to accommodate the housing needs, demands and forms that are typical of a village center. The intent is to create zoning districts that would fit and allow developments such as this under (V16-08) by right in the area.

*Staff finds that the strict application of the zoning ordinance would deprive the specific property of privileges enjoyed by similar Heritage District property in the SF-6 zoning district.*

The SF-6 district requires a maximum of 45% lot coverage for one-story buildings. In this case, the unique lot location and the conventional SF-6 development standards are not

particularly suitable for the desired village living and design with its variety of housing types and options. Staff finds the proposed 55% lot coverage is reasonable.

Staff notes that although the property is larger than the minimum lot size required in SF-6 zoning district. This is a result of the existing lot dimensions created in 1917 of 50 feet width (where 55' is required) and 130 feet depth (where 100' minimum is required) for an overall lot size of 6,500 sq. ft. (where 6,000 sq. ft. minimum is required). As such the subject site is 5' narrower in width than is typically required. Without the requested variances, the strict application of the SF-6 development standards would prohibit the ability to provide for such a structure as an improved garage, a secondary dwelling unit or guest quarters on the property.

***B. Such special circumstances were not created by the owner or applicants;***

*Staff finds that the special circumstances present are not "self-imposed".*

The applicant explains that the owner did not create the unique property size and shape. The property owner is essentially cleaning up a pre-existing condition on the site with the existing detached accessory garage. The applicant would like to continue to utilize a detached structure on the site; however, this existing structure is in a dilapidated condition and is actually constructed over the eastern property line by 1'.

Therefore, the variance request is a result of the property owner wanting to utilize an existing structure but also needing to improve a dilapidated, uninhabitable structure; improve the existing detached garage; and remodel the existing structure into a usable and structurally sound building that is reviewed and approved for all life safety and building code requirements; and additionally relocate a new structure completely onto Lot 13 of the Lacy Tract subdivision.

Staff additionally notes that the typical lots within this specific area and surrounding parcels are predominately rectangular in size and shape. However, with regard to the subject site, the irregular size and shape is due to the substandard lot width on the subject site, resulting from the creation of the Lacy Tract subdivision in 1917. Additionally, the existing primary dwelling unit and existing detached garage/ accessory structure on the subject site were constructed circa 1941, approximately 70+ years before the current property owner purchased the subject site and adjacent parcels to the east and west of the subject site.

***C. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and***

*Staff finds the variance would not grant special privileges inconsistent with limitations on nearby or comparable properties.*

The applicant has submitted photographs of other adjoining properties on the same street and along existing alleys in the immediate area that exhibit reduced front yard setbacks for

accessory structures and garages. Staff notes that the increase in maximum lot coverage is minimal and typical of village center type housing with increased density and housing types. Aerial photos show lots in the vicinity exhibit similar coverage and side and rear yard setbacks. There are four (4) existing and approved variances in the vicinity with SF-6 zoning that have been granted similar variance requests for front, side, and rear setbacks along with allowances for increases in minimum lot coverage.

***D. The variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.***

*Staff finds that the proposed variance will not be detrimental to the enjoyment of adjacent properties, land uses or the greater community's welfare and safety.*

Staff notes that the property owner and applicant for V16-08, owns both parcels that are directly adjacent to the subject site (Lot 13 of the Lacy Tract subdivision) on the east and west of the site, while an existing 15' wide alley separates the subject site from the parcel to the north.

Additionally, staff notes that photographs of other adjoining properties on the same street and along existing alleys in the immediate area demonstrate reduced side and rear yard setbacks for accessory structures, dwelling units and detached garages. Aerial photos also show lots in the vicinity that exhibit similar coverage and side and rear yard setbacks. Staff is not aware of any opposition to the granting of this variance request.

Hearing Officer Oehler said he had a few questions for Planner Williams.

Question: Hearing Officer Oehler asked if the site was previously R-3 under the LDC.

Answer: Nathan Williams said it was R-3 under the ULDC.

Question: Hearing Officer Oehler asked if the property was allowed more density at that point in time.

Answer: Nathan Williams answered affirmatively.

Question: Hearing Officer Oehler asked if the garage portion was accessed through the alley.

Answer: Nathan Williams answered that the proposed garage would be accessed primarily from the alley. He pointed out that it could also be accessible from the other side.

Question: Hearing Officer Oehler asked if Town Traffic had been consulted on this issue or if it was standard to use alleyways for maneuvering.

Answer: Nathan Williams said it was standard to use alleyways for maneuvering. He noted that the location of the garage is now on the property line. This would be an improvement as the new garage would be set the garage back a small amount.

Question: Hearing Officer Oehler asked if the 5% lot coverage bonus covers SF-6.

Answer: Nathan Williams said that it does cover SF-6, but it only pertains to “open air” structures.

Question: Hearing Officer Oehler asked for clarification on what the 5% lot coverage bonus was used for.

Answer: Nathan Williams said it was for porches and covered patios.

Comment: Hearing Officer Oehler said he thought you could use what you had in the front of the house.

Response: Planner Williams said this was a valid point. He said you would have to do some additional breakdowns and calculations to determine this amount. He thought it would be approximately 100 square feet that could be used.

At this time, Hearing Officer Oehler asked the applicant, Doralise Machado-Liddell, if she would like to add anything to the presentation. Doralise Machado-Liddell said that she thought Planner Williams had done a great job of defining the scope of the project. She wanted to add that the property was within the Lacy Tract in the Heritage District and is within the slum clearance in the redevelopment area. She shared that she had previously brought the main house up to Code and this improvement would promote the redevelopment in the area and take away some of the dilapidated existing buildings. She also noted that the existing building encroaches on the next lot. The expense required to remodel the existing garage would be prohibitive. She also shared that the alleyway was 15’ which provides a type of setback, in itself, from the other neighboring property. She feels that this proposal will be a benefit to the community.

Hearing Officer Oehler thanked Doralise Machado-Liddell for her additional comments.

Question: Hearing Officer Oehler asked about the overhang. He said it looks to be a 3’ setback, but he wondered if that setback was from the face of the building of the structure.

Answer: Ms. Machado-Liddell said it was approximately 12” to 18”.

Comment: Hearing Officer Oehler said he would have to take a look at the building code, but he thinks that presents a fire rating issue.

Response: Ms. Machado-Liddell said she understood this and knew she would have to abide by the suggested fire rating requirements.

Comment: Hearing Officer Oehler said he just wanted to make sure the applicant realized that if she was that close, she would have to fire rate anything past the 3’ point.

Answer: Ms. Machado-Liddell said she was aware of this.

Hearing Officer Oehler noted that it appeared that no members of the public wished to speak on the case, as no one was present at the hearing.

Question: Hearing Officer Oehler asked about the barbeque area in the design.

Answer: Ms. Machado-Liddell said it would be an outdoor barbeque area.

Question: Hearing Officer Oehler asked if it was covered.

Answer: Ms. Machado-Liddell said it would be covered.

Comment: Hearing Officer Oehler said he had seen it in the lot coverage number, but he wanted to clarify what was being designed. He wanted to make sure this would be a part of a separate permit.

Response: Ms. Machado-Liddell said it would be a separate portion that she would seek a permit for.

Question: Hearing Officer Oehler sought to verify that the barbeque area was an addition to the other house and that it wasn't part of this variance hearing. He noted that he had to look at lot coverage, so he wanted to make sure what type of structure it would be and if it would be covered.

Answer: Ms. Machado-Liddell said it would be covered.

Question: Hearing Officer Oehler asked if that would be within the same 5'. He wanted to make sure the applicant wouldn't be extending into the 5'.

Answer: Ms. Machado-Liddell said she would not.

Question: Hearing Officer Oehler asked about the 3' setback to the east. He asked if the carport was at the property line.

Answer: Planner Williams said the carport was at the property line.

Question: Hearing Officer Oehler asked if that stayed "non-conforming."

Answer: Planner Williams answered that since this was constructed in 1941, they were not expecting conformity to the current LDC.

Hearing Officer Oehler said that he didn't have any additional questions. He said he felt comfortable with approving the variance request. He thought it was a good use for the subject site. He said it appeared that the applicant had thought through the process and thought through the use of the property. He noted that the applicant was taking an older structure that was very dilapidated and planned to design something that would improve the neighborhood. He said he agreed with Staff on the Four Findings of Fact, briefly touching on each one. Hearing Officer Oehler said the only reason he wasn't making his final decision today, was that he wanted to verify the number in terms of lot coverage. He indicated he didn't have any issue with increasing the number, but he wanted to make sure he did so correctly. He said he would make an official decision within 10 days, but he said at this time, that he was in favor of approving all the variance requests.

Comment: Doralise Machado-Liddell said that originally she wanted to put a two-story structure on the property, consisting of a garage and an apartment. She said that because the house was built in 1941, she has had to work with the confines of the current zoning requirements, which don't allow her to build above the primary structure. This is the reason she had to go out, instead of up, when she began her remodeling project.



With no further business, Zoning Hearing Officer Oehler adjourned the meeting at 5:27 p.m.

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Joshua Oehler, Zoning Hearing Officer

ATTEST:

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Debbie Frazey, Recording Secretary